

Vulcan

Materials Company

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*received
5/16/06*

May 10, 2006

FD 34284

Mr. Richard Garcia
Director-Region 13
Texas Commission on Environmental Quality
14250 Judson Road
San Antonio, TX 78233-4480

Re: Vulcan Materials Company, Inc.; Medina County Quarry; Water Pollution Abatement Plan

Dear Mr. Garcia:

By letter dated April 21, 2006, David Barton of the Gardner Law Firm, on behalf of the Medina County Environmental Action Association ("MCEAA"), provided you with comments on the Water Pollution Abatement Plan ("WPAP") submitted by Vulcan Materials Company, Inc. ("Vulcan") for its Medina Quarry. We are writing to promptly correct the MCEAA's largely irrelevant, inaccurate and, frankly, misleading comments. To the very slight extent that the MCEAA comments actually address issues germane to 30 T.A.C. Chapter 213, which contains the requirements applicable to WPAPs, we have included a concise response meant simply to highlight the provisions of Vulcan's WPAP that address these issues.

I. Response to Comments Related to TPDES General Permits TXR150000 and TXR050000:

Both TPDES General Permits TXR150000 and TXR050000 require submittal of a Notice of Intent ("NOI") no sooner than 48 hours before start of construction. That also is the time by which the related Stormwater Pollution Prevention Plan ("SWP3") needs to be developed and implemented. MCEAA suggests otherwise, but there simply is no requirement that Vulcan submit NOIs for coverage under TPDES General Permits TXR150000 or TXR050000 or implement a SWP3 at this stage of project development. More importantly, these authorizations and any comments related to them are outside the scope of the requirements set forth in Chapter 213, which sets forth the only provisions applicable to TCEQ's present review of Vulcan's WPAP. As is true of the majority of the MCEAA letter, the discussion of these TPDES general

permits is misplaced and inapplicable to the relevant issue – whether the WPAP proposed by Vulcan satisfies the requirements of Chapter 213.

It also is important to note that the MCEAA inaccurately speculates that Vulcan intends to rely on its proposed WPAP to serve as its SWP3. Vulcan has never represented that its WPAP would be used in lieu of a SWP3. On the contrary, Vulcan has stated that it will have and maintain both a WPAP and appropriate SWP3 because of its location on the Edwards Aquifer Recharge Zone.

II. Response to Comments Related to the “Piecemealed” State Quarry Permitting Process:

The MCEAA complains that there is no integrated water quality permitting and oversight program, organized among the applicable state agencies, that currently regulates quarries in the State of Texas. But this is not the appropriate context in which to comment on established regulatory permitting processes. If the MCEAA is dissatisfied with the law, it should look to change it, and not criticize those who seek to comply with it.

III. Response to Comments Related to Other Permitting Matters:

The MCEAA’s letter alleges various deficiencies in Vulcan’s proposed air permit, well permit, and rail license. These allegations, too, are outside the scope of the Chapter 213 requirements against which the WPAP is to be judged. The MCEAA is free to raise them in the appropriate forum; in fact, it already has.

IV. Response to Comments Related to Water Quality Issues:

Largely based on an inaccurate depiction of the temporary and permanent best management practices (“BMPs”) proposed for the Medina Quarry site, MCEAA makes numerous allegations related to water quality. As evidenced by the telling absence of any reference to even one unmet requirement in Chapter 213, these comments are without merit. The plan clearly establishes appropriate measures for protecting water quality as required by Chapter 213. However, in order to clarify any possible misconceptions, we briefly address MCEAA’s inaccurate depiction of Vulcan’s WPAP.

First, MCEAA claims that the WPAP divides up its analysis of the quarry site (into the quarry pit and plant site areas) and fails to provide any analysis of the quarry pit. Clearly this is not the case. The WPAP is one comprehensive plan, designed to protect existing and potential

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uses of groundwater and maintain the State's surface water quality standards, covering Vulcan's entire quarry site and all proposed "regulated activities" (as that term is defined in 30 T.A.C. § 213.3(28)) to be conducted at that site. Because the quarry pit and plant areas will differ significantly in layout, elevation, topography, and water flow patterns, both entering and leaving these areas, Vulcan performed separate evaluations for each area to determine which BMPs were most appropriate and best-suited to satisfying the requirements of 30 T.A.C. § 213.5(b)(4)(B) and (C). Contrary to MCEAA's claims, Vulcan has proposed extensive temporary and permanent BMPs, using the design criteria established in the Agency's Edwards Aquifer Technical Guidance Manual ("TGM"), for both the quarry pit and plant areas.

The MCEAA also suggests that Vulcan intends to employ its proposed settling ponds as BMP measures. This is simply not true: Vulcan plans to use its settling ponds for water storage and recycling throughout the plant, not for water quality control. These ponds will not be used to contain all drainage from the plant site, and they will not serve as Vulcan's permanent BMPs. Rather, Vulcan will employ two concrete-lined retention ponds and two sand-filtration basins to collect stormwater runoff and therefore fulfill the requirements set forth in 30 T.A.C. §§ 213.5(b)(4)(C) and 213.5(b)(4)(D)(ii). These permanent BMP measures are addressed in the section of Vulcan's WPAP marked TCEQ-0600 Attachment C, "Permanent BMPs."

The April 21 letter also asserts that Vulcan has failed to provide the requisite analysis of and BMP measures for the quarry pit. Again, this is simply wrong: As previously discussed, Vulcan has proposed extensive temporary and permanent BMPs, for both the quarry pit and plant areas. The quarry pit itself and related BMPs are addressed in the sections of Vulcan's WPAP marked TCEQ-0584 Attachment A, "Factors Affecting Water Quality," TCEQ-0600 Attachment B, "Permanent Storm Water Section Up-gradient Drainage," and TCEQ-0600 Attachment C, "Permanent BMPs."

The letter also inaccurately asserts that Vulcan's WPAP fails to provide BMP measures for the protection of sensitive features located on-site. Potential contamination to the Edwards Aquifer through sensitive features is specifically addressed in the section of the WPAP marked TCEQ-0600 Attachment C, "Permanent BMPs." Additionally, the plan states that Vulcan does not intend to seal any sensitive features.

The MCEAA goes on to assert that the WPAP is deficient because quarrying will occur to an indeterminate depth. Vulcan addresses the depth of proposed mining activities in section TCEQ-0584 Attachment A, "Factors Affecting Water Quality," of its WPAP. This section makes clear that mining operations are expected to extend to an average depth of 130 feet from the existing surface, thereby maintaining a safe buffer between quarrying operations and the Edwards Aquifer.

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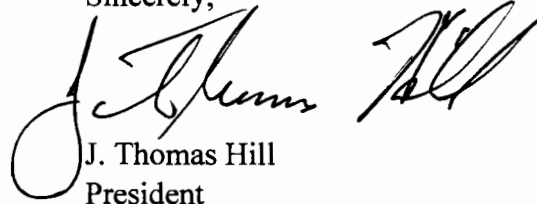
V. Response to Comments Related to Flooding:

Finally, MCEAA seeks to raise vague concerns related to flooding at the Medina Quarry site. However, it goes on to rightly acknowledge that “[f]looding is not the direct concern of the WPAP or other stormwater programs.” And so, consistent with the majority of the issues raised by the April 21 letter, these concerns are simply inapplicable to Vulcan’s WPAP and TCEQ’s present review of this plan.

In sum, the MCEAA’s letter raises no issue of relevant concern or of any merit. Please include this response with the record in this matter, so that any person interested in an accurate understanding of the merits of Vulcan’s WPAP may receive it.

Please do not hesitate to contact me with any remaining questions or concerns.

Sincerely,



J. Thomas Hill
President

cc: Mr. Robert Potts, General Manager, Edwards Aquifer Authority
Ms. Rini Ghosh, U.S. Surface Transportation Board